United Nations A/HRC/WG.6/28/KOR/2

General Assembly

Distr.: General
31 August 2017

Original: English

**Human Rights Council**
**Working Group on the Universal Periodic Review**
**Twenty-eighth session**
6-17 November 2017

# Compilation on the Republic of Korea

## Report of the Office of the United Nations High Commissioner for Human Rights

## I. Background

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of the information contained in the reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

## II. Scope of international obligations and cooperation with international human rights mechanisms and bodies[1, 2]

2. The Special Rapporteur on the situation of human rights defenders recommended that the authorities expedite the ratification of those United Nations human rights treaties that had still not been ratified.[3] In particular, it was recommended that the Republic of Korea ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,[4] the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment,[5] the Optional Protocol to the Convention on the Rights of Persons with Disabilities,[6] the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty,[7] the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families,[8] the Convention against Transnational Organized Crime, and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,[9] the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29),[10] the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87),[11] the ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98),[12] the ILO Migration for Employment Convention (Revised), 1949 (No. 97),[13] the ILO Abolition of Forced Labour Convention, 1957 (No. 105),[14] the ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129),[15] the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143),[16] and the Convention on the Reduction of Statelessness, of 1961.[17] UNESCO encouraged the authorities to ratify the Convention on Discrimination in Education, in line with a recommendation from the universal periodic review[18] of 2012.[19]

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3. The Special Rapporteur on the rights to freedom of peaceful assembly and of association recommended the removal of the reservation to article 22 of the International Covenant on Civil and Political Rights.[20]

4. In 2015, the Human Rights Committee recommended, inter alia, fully implementing the Views that it had issued.[21]

5. In 2016, the Republic of Korea submitted its midterm report regarding the implementation of the recommendations made during the second cycle of the universal periodic review in 2012.[22]

6. In June 2015, OHCHR established a new field-based structure in Seoul to strengthen monitoring and documentation of the human rights situation in the neighbouring country, with the United Nations High Commissioner for Human Rights present at the opening of the office.[23]

7. The Republic of Korea contributed financially to OHCHR annually.[24]

## III. National human rights framework[25]

8. The Committee against Torture noted the second national action plan on human rights, covering the period from 2012 to 2016, and the work being done with a view to adopting the third action plan.[26]

9. The Human Rights Committee recommended adopting the legislation necessary to ensure a transparent and participatory process for the selection and appointment of members to the National Human Rights Commission of Korea and to guarantee the independence of its members.[27] The Committee against Torture recommended establishing an independent committee to nominate candidates and to guarantee the independence, diversity and functional immunity of the members of the Commission, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and ensuring that the Commission had adequate resources.[28] The Working Group on the issue of human rights and transnational corporations and other business enterprises recommended broadening the mandate of the Commission to enable it to consider all human rights harms caused by private enterprises.[29]

## IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law

### A. Cross-cutting issues

#### 1. Equality and non-discrimination[30]

10. The Human Rights Committee recommended adopting comprehensive anti-discrimination legislation, explicitly addressing all spheres of life and prohibiting discrimination on any ground, including race, sexual orientation and gender identity.[31] The Committee on the Elimination of Racial Discrimination and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance made similar recommendations.[32]

11. The Special Rapporteur on racism recommended amending the relevant laws in order to include racial discrimination as a criminal offence, providing for adequate sentences for the gravity of the offence, making racial discrimination an aggravating circumstance when another offence is committed and providing for appropriate reparations for the victims.[33] The Committee on the Elimination of Racial Discrimination made similar recommendations.[34]

12. The Committee on the Elimination of Racial Discrimination noted that racist hate speech directed against non-citizens was becoming more widespread and explicit in the media and on the Internet.[35] The Special Rapporteur on racism called upon the Government to strengthen mechanisms for preventing and eliminating xenophobic discourse against foreigners, migrants and multicultural families. Politicians from mainstream political parties should avoid xenophobic discourse and the scapegoating of foreigners, migrant workers and multicultural families.[36]

13. The Committee on the Elimination of Racial Discrimination was concerned that the Multicultural Families Support Act limited the definition of multicultural families to the union between a citizen of the Republic of Korea and a foreigner, thereby creating de facto discriminatory situations.[37] The Special Rapporteur on racism recommended broadening the definition of multicultural families to include unions between foreigners or inter-ethnic unions in order to integrate those who were excluded from the social benefits provided for under the Act.[38]

14. The Committee on the Elimination of Racial Discrimination considered that the mandatory HIV/AIDS and illegal drug medical testing policy limited to foreign English teachers who were not ethnically Korean did not appear to be justified on public health grounds or any other ground, and was a breach of the right to work without distinction as to race, colour, and national or ethnic origin. It observed that mandatory HIV/AIDS testing for employment purposes, as well as for entry, stay and residence purposes, was considered to be in contradiction to international standards, as such measures appeared to be ineffective for public health purposes, discriminatory, and harmful to the enjoyment of fundamental rights.[39]

15. Noting the universal periodic review recommendation[40] on a birth registration system, the Office of the United Nations High Commissioner for Refugees (UNHCR) reported that the birth registration system failed to ensure universal and compulsory birth registration and that foreigners whose children had been born in the country were not able to register their children through the family register, although their children might receive a birth notification document from the hospital. UNHCR recommended establishing a universal birth registration system that included children of refugees, asylum seekers and stateless persons, and ensuring that all children had access to birth registration immediately after birth, regardless of the status of their parents.[41] The Human Rights Committee and the Committee on the Elimination of Racial Discrimination made similar recommendations.[42]

16. The Human Rights Committee was concerned about the discrimination against lesbian, gay, bisexual, transgender and intersex persons, including violence and hate speech. It recommended, inter alia, that the Government not tolerate any form of social stigmatization of, or discrimination against, persons based on their sexual orientation or gender identity, that it strengthen the legal framework to protect them and that it facilitate access to the legal recognition of gender reassignment.[43]

### 2. Development, the environment, and business and human rights[44]

17. The Special Rapporteur on human rights defenders recommended adopting a human rights-based approach to development policy and programming, including by establishing mechanisms for consultation and effective participation of the communities affected by development projects.[45]

18. The Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes recommended increasing efforts to prevent harm to communities living near sources of ongoing pollution or contaminated sites, and ensuring that the victims realized their right to an effective remedy consistent with human rights principles. He recommended ensuring that sufficient resources were available for regional and local governments tasked with monitoring and enforcement of laws on pollution control.[46]

19. The Working Group on business and human rights recommended developing a national action plan on business and human rights based on multi-stakeholder engagement and the Working Group's guidance.[47] It recommended, inter alia, that the Government underline the expectation in relevant policies that business enterprises must respect human

rights throughout their operations and conduct human rights due diligence in relation to their domestic and international operations.[48] The Special Rapporteurs on hazardous substances and wastes, on human rights defenders, and on freedom of peaceful assembly and association made similar recommendations.[49]

### 3. Human rights and counter-terrorism

20. The Human Rights Committee recommended ensuring that the counter-terrorism legislation and practices were applicable to terrorism alone and complied with the principle of non-discrimination, that acts of terrorism were defined in a precise and narrow manner and that relevant legislation was limited to crimes that would clearly qualify as acts of terrorism.[50]

## B. Civil and political rights

### 1. Right to life, liberty and security of person[51]

21. While acknowledging the current non-application of the death penalty, the Human Rights Committee was concerned that a significant number of persons remained sentenced to death. It recommended giving due consideration to the legal abolition of the death penalty and to the commutation of all death sentences to terms of imprisonment.[52] The Committee against Torture made similar recommendations.[53]

22. The Committee against Torture was concerned about the high number of suicides and sudden deaths in correctional facilities, and in pretrial detention where suicides might be the result of coercive investigation procedures by police and prosecutors.[54]

23. In 2017, the Committee against Torture reiterated its previous recommendation to incorporate into the Criminal Act a definition of torture that made torture a distinct crime and that included all the elements covered in the Convention, including the mental and psychological aspects of torture. The authorities should revise its legislation to ensure that acts of torture are offences under criminal law and that they are punishable by penalties commensurate with the gravity of the crime.[55] The Human Rights Committee had made similar recommendations in 2015.[56]

24. The Committee against Torture recommended ensuring that the absolute prohibition against torture was non-derogable, that no exceptional circumstances may be invoked as a justification for torture and that there was no statute of limitations for acts of torture.[57]

25. The Committee against Torture reiterated its concern that persons continued to be arrested under the National Security Act and that some persons arrested under the Act had allegedly been subjected to arbitrary arrest and detention, as well as to coerced confessions.[58]

26. The Committee against Torture noted that persons escaping the neighbouring country might be lawfully detained for up to six months. It was concerned at reports that such persons might be detained indefinitely by the National Intelligence Service and be detained in solitary confinement and without due process, and that they might be deported to third countries where they risked being tortured.[59] It recommended ensuring that any person detained for reasons related to their escape from the neighbouring country was deprived of their liberty for the shortest possible period and not beyond the established legal maximum, and ensuring their access to all fundamental legal safeguards.[60] The Human Rights Committee made similar observations.[61]

27. The Committee against Torture was concerned at reports of a large number of cases of violence and abuse in the military, which had sometimes resulted in deaths, and at the small number of such cases that had resulted in indictments.[62] The Human Rights Committee recommended conducting impartial investigations into all allegations of abuse in the military, and ensuring that the victims and witnesses were protected against reprisals.[63] The Committee against Torture recommended establishing the office of military ombudsman as an independent entity to monitor military units and conduct investigations into allegations of abuse and violence in the military.[64]

## 2. Administration of justice, including impunity, and the rule of law[65]

28. The Committee against Torture recommended guaranteeing that all detained persons were afforded in practice all the fundamental legal safeguards from the outset of their deprivation of liberty, in accordance with international standards, including with respect to having access to legal counsel from the very outset of their deprivation of liberty, and being brought before a judge within 48 hours of their apprehension.[66]

29. The Human Rights Committee was concerned about overcrowding in prisons and limited access to medical aid outside prisons.[67] The Committee against Torture recommended, inter alia, improving the material conditions in correctional facilities and reducing overcrowding, and hiring additional medical personnel and enabling the referral of inmates requiring specialized medical care to outside medical facilities.[68] It recommended that the authorities consider using non-custodial measures and alternatives to detention.[69]

30. The Human Rights Committee recommended ensuring that solitary confinement was used only in the most exceptional circumstances.[70] The Committee against Torture recommended ensuring that restraints used to punish inmates were used only as a measure of last resort, for the shortest time possible and only when less intrusive alternatives for control had failed.[71]

31. The Human Rights Committee was concerned that there was no independent mechanism within the legal system, separate from the police, to investigate allegations of torture and ill-treatment.[72] The Committee against Torture recommended establishing an independent and effective complaints mechanism regarding complaints of torture and ill-treatment, including in all places of deprivation of liberty.[73]

## 3. Fundamental freedoms[74]

32. The Human Rights Committee was concerned that, in the absence of a civilian alternative to military service, conscientious objectors continued to be subjected to criminal punishment. It recommended releasing all conscientious objectors, ensuring that their criminal records were expunged and ensuring the legal recognition of conscientious objection to military service.[75]

33. The Committee was concerned about the increasing use of criminal defamation laws to prosecute persons who criticized government actions and obstructed business interests, and about the harsh sentences, including prison terms, handed down in such cases.[76] The Special Rapporteur on human rights defenders was concerned about reports indicating that defamation suits were filed even when statements were true and made in the public interest. She recommended ensuring that defamation was only punishable under civil law and that compensation provided was proportionate to the harm done.[77]

34. UNESCO reported that article 7 of the National Security Act prescribed imprisonment for praising, inciting or propagating the activities of an anti-government organization, a member thereof or a person who had received an order from it or who had acted in concert with it.[78] The Human Rights Committee was concerned that prosecutions continued to be brought under the Act, that the vague wording of article 7 could have a chilling effect on public dialogue and was reported to have unnecessarily and disproportionately interfered with freedom of expression in a number of cases and that the Act was used for censorship purposes.[79]

35. The Special Rapporteur on human rights defenders recommended ensuring that provisions in the National Security Act on what constituted a threat to national security were clearly defined and only applied when strictly necessary in order to avoid criminalization of activities in defence of human rights.[80]

36. The ILO Committee of Experts on the Application of Conventions and Recommendations noted that the State Public Officials Act prohibited public officials from participating in an organization of, or joining in, any political party or other political organization.[81] It reported that teachers were subject to disciplinary measures for engaging in political activities, and concluded that disciplinary measures against teachers who engaged in political activities outside of the school, and unrelated to teaching, constituted discrimination on the ground of political opinion.[82]

37. The Special Rapporteur on freedom of peaceful assembly and of association stated that the dissolution of the Unified Progressive Party had been a severe measure taken in 2014 by the Government and the courts. The members of parliament from the party had been stripped of their seats following the dissolution of the party. The status of the party as an outspoken critic of the Government and the controversy surrounding the evidence relied upon by the Government in its dissolution petition, as well as the impact of the dissolution on numerous party members who had not been directly implicated in any wrongdoing, had encouraged perceptions that the objective had been to silence the political challenge that the party posed.[83]

38. The Special Rapporteur on freedom of peaceful assembly and of association recommended ensuring, inter alia, that the establishment of associations, including trade unions and political parties, was subject at most to a notification process, and was simple, expeditious and non-onerous, with clear requirements, and that the relevant laws and policies encouraged the formation of small parties.[84]

39. The Human Rights Committee was concerned about the severe restrictions placed on the right to assembly, including the operation of a de facto system of authorization of peaceful assemblies by the police, cases of use of excessive force, and car and bus blockades, and about the frequent application of criminal law to impose fines on and arrest journalists and human rights defenders for either organizing or participating in protests.[85] The Special Rapporteurs on freedom of peaceful assembly and of association and on human rights defenders,[86] and the Committee against Torture,[87] made similar observations. The Special Rapporteur on freedom of assembly and of association expressed dismay over the death of Back Nam-gi, a 69-year-old farmer who had been knocked to the ground by a water cannon operated by the police while taking part in a peaceful rally in Seoul on 14 November 2015 and who had remained in a coma until his passing.[88]

40. The Special Rapporteur on freedom of peaceful assembly and of association recommended, inter alia, ensuring that at most a prior notification and not a de facto authorization regime regulated the exercise of the right to peaceful assembly, and preventing blanket bans on times when and locations where assemblies could be held.[89] The Special Rapporteur and the Committee against Torture recommended reviewing tactics used for the management of assemblies — including the use of water cannons and bus barricades — to ensure that they were not applied indiscriminately or against peaceful protestors and did not result in escalation of tensions.[90]

41. The Special Rapporteur on human rights defenders recommended that the Government carefully consider allegations and reports of violence, intimidation, harassment and surveillance on human rights defenders, conduct prompt and impartial investigations accordingly and hold perpetrators accountable.[91]

### 4. Prohibition of all forms of slavery[92]

42. Several United Nations independent experts raised concerns at the agreement on the issue of "comfort women" (thousands of girls and women from several Asian countries, abducted and forced into sexual slavery prior to and during the Second World War) concluded between the Republic of Korea and the neighbouring country in December 2015. The independent experts drew attention to the fact that the agreement did not meet standards of State accountability for gross human rights violations and had been reached without a proper consultation process. They considered that the agreement fell short of meeting the demands of survivors.[93] The Committee against Torture was concerned that the agreement failed to provide redress and reparation or to ensure the right to truth and assurances of non-repetition.[94]

43. The Committee against Torture recommended revising the 2015 agreement to ensure that the surviving victims of sexual slavery during the Second World War were provided with redress, including the right to compensation and rehabilitation, and that they were guaranteed the right to truth, reparation and assurances of non-repetition.[95]

44. The Human Rights Committee noted with concern that, while the Republic of Korea was a source, transit and destination country for human trafficking, traffickers were rarely prosecuted and convicted. It was concerned that a significant number of agricultural

workers were trafficked into the country for the purpose of exploitation, including forced labour, that women entering the country on E-6 (culture and entertainment) visas were frequently trapped into prostitution, that there was no mechanism to adequately identify victims of trafficking, and that the legal definition of trafficking criminalized only the acts of buying and selling, which hindered the prosecution of persons who recruited and exploited migrant workers through contractual deception.[96]

### 5. Right to privacy and family life

45. The Human Rights Committee noted with concern that, under the Telecommunications Business Act, subscriber information might be requested without a warrant by any telecommunications operator for investigatory purposes. It was concerned about the use and insufficient regulation in practice of base station investigations of mobile telephone signals picked up near the site of demonstrations in order to identify participants, and about the extensive use and insufficient regulation in practice of wiretapping, in particular by the National Intelligence Service.[97]

46. It was estimated, as stated in the OHCHR report of 2016, that since the 1950-1953 Korean War, 129,616 individuals in the Republic of Korea had registered for reunion with their families in the neighbouring country. More than half of those applicants had passed away without being given a chance to restore contact.[98] In 2016, the High Commissioner for Human Rights stated that the emotional, psychological, social and economic toll of involuntary separation of the families had persisted, as people had continued to search for the truth and for contact with their loved ones.[99] The OHCHR report of 2016 proposed several recommendations to the Government.[100]

## C. Economic, social and cultural rights

### Right to work and to just and favourable conditions of work

47. The Working Group on business and human rights stated that 22 per cent of the workforce who were employed as temporary workers were in a vulnerable situation. The number of female workers in non-regular employment was particularly high.[101]

48. The Working Group stated that health and safety in the workplace was reported to have been a problem in relation to large companies and increasingly also to small and medium-sized ones.[102] The Special Rapporteur on hazardous substances and wastes stated that workers in various sectors were at an elevated risk of adverse health impacts from chronic exposure to toxic chemicals as well as accidents involving hazardous substances.[103]

49. The Special Rapporteur on human rights defenders stated that there were important limitations to the exercise of labour rights, whereby the right to collective bargaining and to strike were curtailed. She noted that the right to strike seemed to be unduly restricted due to a narrow definition and interpretation of "labour dispute" and were reportedly criminalized through the use of provisions of the Criminal Act, such as "obstruction of business". She observed that the practice of filing compensation lawsuits claiming exorbitant amounts for "obstruction of business" against unions and union members had become widespread.[104]

50. The Committee on the Elimination of Racial Discrimination was concerned that migrant workers could not enjoy their right to organize and join a labour union.[105] The Special Rapporteur on freedom of peaceful assembly and of association noted that teachers and public officials were prohibited from engaging in industrial action. The legislation stated that non-workers could not be part of a union and that dismissed workers were prohibited from trade union membership.[106]

51. The ILO Committee of Experts on the Application of Conventions and Recommendations noted with regret that the revised Trade Union and Labour Relations Adjustment Act retained the ban on the payment of wages to full-time trade union officials and the penal sanctions against employers and unions in case of non-compliance. It reiterated that the payment of full-time union officers should be a matter for free and voluntary negotiation between the parties.[107]

52. The Special Rapporteur on human rights defenders recommended ensuring that labour rights, including collective bargaining and the right to strike, could be exercised without undue restrictions or intimidation, establishing adequate mediation mechanisms between management and labour unions and protecting unions and workers from harassment by private firms and corporations.[108]

## D. Rights of specific persons or groups

### 1. Women[109]

53. The Human Rights Committee was concerned about discrimination against women and about the small proportion of women in decision-making positions, the high rate of women in irregular employment and the high wage gap between men and women.[110]

54. The Working Group on business and human rights noted that women reportedly left the labour force at a high rate when they married or had children and found it difficult to re-enter the workforce after a career break.[111] The ILO Committee of Experts on the Application of Conventions and Recommendations welcomed the measures taken by the Government to reconcile work and family responsibilities as a means of improving women's participation in employment and requested the Government to continue its efforts.[112]

55. The Committee against Torture was concerned at the wide prevalence of violence against women, at the low number of complaints and prosecutions and at the conditional suspension of charges against perpetrators of domestic violence in exchange for education and counselling, which might amount to acquittal and failed to adequately protect the victims. It was concerned that marital rape was not included as a separate offence in the Criminal Act.[113] The Committee on the Elimination of Racial Discrimination noted that migrant women who were subject to domestic and/or sexual violence often did not report such crimes due to fear of losing their legal resident status.[114]

56. The Human Rights Committee recommended that the authorities explicitly criminalize marital rape, adopt a comprehensive strategy to prevent and address gender-based violence, and ensure that cases of domestic violence and marital rape were thoroughly investigated, that perpetrators were prosecuted and, if convicted, punished with appropriate sanctions and that victims were adequately compensated.[115]

57. In 2012, the Committee on the Elimination of Racial Discrimination urged the authorities to ensure that foreign women who were victims of domestic violence, sexual abuse, trafficking or other forms of violence could confidently access justice, and that women victims of violence were guaranteed a legal stay in the country until they recovered.[116] In 2015, the Special Rapporteur on racism made similar recommendations.[117]

58. In 2012, the Committee on the Elimination of Racial Discrimination reiterated its recommendation to increase the Government's efforts to protect foreign women married to citizens of the Republic of Korea by granting them equal rights in case of separation or divorce, and with regard to subsequent residence permits and other provisions.[118] In 2015, the Special Rapporteur on racism made similar recommendations.[119]

### 2. Children[120]

59. The Committee against Torture was concerned that corporal punishment of children remained permitted in the home, in schools and in alternative care and day-care settings, in particular in orphanages and child welfare facilities, especially outside the capital city.[121]

### 3. Persons with disabilities

60. The Committee on the Rights of Persons with Disabilities recommended reviewing the disability determination and rating system to ensure that the assessment reflected the characteristics, circumstances and needs of persons with disabilities, and that welfare services and personal assistance be extended to all persons with disabilities, including those with psychosocial disabilities.[122]

61. The Committee on the Rights of Persons with Disabilities was concerned that, in psychiatric hospitals, persons with psychosocial disabilities were subjected to acts considered cruel, inhuman or degrading treatment, including solitary confinement, constant beating, restraint and excessive drug treatment.[127] It urged the Government to abolish forced treatment and to protect persons with disabilities in psychiatric hospitals from violence, abuse and ill-treatment through the establishment of independent monitoring mechanisms.[128]

62. Furthermore, the Committee urged the Government to investigate all cases of violence, exploitation and abuse experienced by persons with disabilities both inside and outside institutional settings, and to provide accessible shelters.[129]

63. The Committee was concerned about cases of forced sterilization of women with disabilities, despite legal provisions prohibiting the practice. It urged the authorities to eradicate the practice.[130]

64. The Human Rights Committee noted with concern reports that a large number of individuals in mental health facilities were involuntarily hospitalized, that the grounds for involuntary hospitalization were broad and included circumstances in which the detained persons did not present a threat to themselves or others, and that procedural safeguards against involuntary hospitalization were inadequate.[131]

65. The Committee on the Rights of Persons with Disabilities was concerned that the adult guardianship system permitted guardians to make decisions in regard to persons deemed persistently incapable of managing tasks due to psychological restrictions caused by disease, disability or old age. It recommended moving from substituted decision-making to supported decision-making, which respected the person's autonomy, will and preferences.[132]

66. The Committee recommended ensuring fair trial and due process guarantees for persons with disabilities, and removing from the criminal justice system the declaration of unfitness to stand trial in order to allow due process for persons with disabilities on an equal basis with others.[134]

67. The Committee urged the authorities to develop effective deinstitutionalization strategies based on the human rights model of disability and to increase support services in the community.[135] It encouraged the authorities to ensure that social assistance programmes provided sufficient and fair financial assistance so that persons with disabilities could live independently in the community.[136]

68. The Committee recommended putting in place measures to narrow the employment gap and ensuring the effective implementation of the mandatory employment quota system for persons with disabilities.[137]

69. The Committee was concerned that, despite the existence of an inclusive education policy, students with disabilities in regular schools returned to special schools, and failed to receive education that was suitable for their impairment-related needs.[133]

70. The Committee was concerned about the low number of accessible buses and taxis in rural and urban areas, and that accessibility standards for buildings were restricted by minimum size, capacity and date of construction and had not yet been applied to all public buildings.[138]

71. The Committee was concerned that many polling booths were not fully accessible to persons with disabilities, that voting information was not provided to them taking into consideration the various types of disability and that persons declared incompetent were denied the right to vote and stand for elections.[139]

72. The Committee was concerned that the sign language used in the country was not recognized as an official language.[140]

### 4. Migrants, refugees and asylum seekers[137]

73. The Special Rapporteur on racism stated that the Employment Permit System placed a number of restrictions on migrant workers, for example with regard to the number of times they could change workplace and employment and the maximum period of stay, denied them the right to family reunification and placed extreme burdens on migrants seeking to change the type of visa. He was concerned that several restrictions within the Employment Permit System increased the likelihood of migrant workers being subjected to human rights abuses by their employers, who could, for example, terminate a migrant's contract without having to justify the decision.[138]

74. The Special Rapporteur on racism and the Committee on the Elimination of Racial Discrimination recommended amending the Employment Permit System, in particular with regard to the complexity and variety of types of visa, discrimination based on country of origin, the limitation of the migrant workers' ability to change their place of work and the maximum employment period allowed.[139] The Committee on the Elimination of Racial Discrimination recommended ensuring that migrant workers who entered the country legally did not become undocumented as a result of the inflexibility of the work permit system.[140]

75. The Committee against Torture urged the Government to provide legal protection to migrant workers against exploitation, ill-treatment, abuse and confiscation of personal documents, and to guarantee that they had access to justice.[141]

76. The Committee on the Elimination of Racial Discrimination recommended ensuring that migrant workers and their families, in particular children, enjoyed an adequate livelihood, housing, health care and education.[142]

77. UNHCR commended the authorities for the adoption of the Refugee Act in 2013, under which asylum procedures were established and the basic rights of asylum seekers and refugees were recognized.[143] However, it noted that gaps remained with regard to the treatment of asylum seekers and refugee status determination procedures initiated at ports of entry into the country. It referred to cases of asylum seekers being held at Incheon airport after having been denied referral to full asylum procedures, and being kept in substandard conditions or at length at a small waiting area at the airport, and cases of asylum seekers being forcibly deported to their country of origin.[144]

78. The Committee against Torture recommended that the authorities consider revising article 5 of the Enforcement Decree of the Refugee Act with a view to removing the grounds for non-referral to asylum procedures, and ensure that an effective appeal mechanism exists with regard to negative decisions and that appeals have a suspensive effect.[145] UNHCR made a similar recommendation.[146]

79. The Special Rapporteur on racism recommended processing asylum claims within a shorter time frame, and ensuring free legal aid to asylum seekers and adequate training on human rights and asylum procedures for law enforcement agents.[147]

80. UNHCR recommended adopting alternatives to detention for asylum seekers in order to reduce arbitrary and/or prolonged detention of asylum seekers, and ensuring that the detention of asylum seekers, refugees and stateless persons was only used as a measure of last resort and where necessary, and for as short a period as possible.[148]

81. UNHCR stated that although the basic rights of refugees were respected, most refugees struggled to establish a basic livelihood and to integrate into the society. That was often because of challenges with regard to the Korean language, the work culture, the highly competitive economy and the high cost of living.[149] The Committee on the Elimination of Racial Discrimination recommended taking all necessary measures so that refugees and asylum seekers enjoyed the right to work and they and their families enjoyed an adequate livelihood, housing, health care and education.[150]

82. UNHCR stated that humanitarian status holders had more limited work rights than recognized refugees and no access to national health insurance, and that their stay period was renewed for only 6-12 months at a time. It recommended that the Government grant humanitarian status holders an ongoing right to remain in the country rather than repeated

short extensions of stay permits, and ensure that humanitarian status holders' visa documents clearly indicated the right to work.[151]

83. UNHCR recommended establishing a legal and policy framework for the reunification of family members of recognized refugees and humanitarian status holders.[152]

### 5. Stateless persons

84. UNHCR recommended incorporating the rights and standards recognized in the Convention relating to the Status of Stateless Persons, of 1954, into the national legislation, and establishing a statelessness determination procedure.[153]

*Notes*

[1] Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for the Republic of Korea will be available at www.ohchr.org/EN/HRBodies/UPR/Pages/KRIndex.aspx.
[2] For the relevant recommendations, see A/HRC/22/10, paras. 124.1-124.10, 124.15, 124.35 and 124.43.
[3] See A/HRC/25/55/Add.1, para. 107 (a). See also A/HRC/29/46/Add.1, para. 67; and A/HRC/32/36/Add.2, para. 94 (c).
[4] See A/HRC/33/41/Add.1, para. 106 (m).
[5] See CAT/C/KOR/CO/3-5, para. 44.
[6] See CRPD/C/KOR/CO/1, para. 10.
[7] See CCPR/C/KOR/CO/4, para. 23, and CAT/C/KOR/CO/3-5, para. 30.
[8] See CERD/C/KOR/CO/15-16, paras. 11 and 19; A/HRC/25/55/Add.1, para. 107 (a); A/HRC/29/46/Add.1, para. 67 (a); and A/HRC/35/32/Add.1, para. 75.
[9] See CERD/C/KOR/CO/15-16, paras. 16 and 19; and A/HRC/29/46/Add.1, para. 67 (c).
[10] See A/HRC/29/46/Add.1, para. 67 (b).
[11] See A/HRC/25/55/Add.1, para. 107 (a); and A/HRC/29/46/Add.1, para. 67 (b).
[12] Ibid.
[13] See A/HRC/29/46/Add.1, para. 67 (b).
[14] Ibid.
[15] Ibid.
[16] Ibid.
[17] See the UNHCR submission for the universal periodic review of the Republic of Korea, p. 5.
[18] For the full text of the recommendation, see A/HRC/22/10, para. 124.8 (Iraq).
[19] See the UNESCO submission for the universal periodic review of the Republic of Korea, para. 15 and p. 5.
[20] See A/HRC/32/36/Add.2, para. 94 (c).
[21] See CCPR/C/KOR/CO/4, para. 7.
[22] See www.ohchr.org/EN/HRBodies/UPR/Pages/UPRImplementation.aspx.
[23] *OHCHR Report 2015*, pp. 22, 23, and 56 and 57.
[24] OHCHR, "Funding", in *OHCHR Report 2016*, pp. 79, 83 and 114-116; *OHCHR Report 2015*, pp. 61, 67 and 109; *OHCHR Report 2014*, pp. 63, 67, 69 and 112; *OHCHR Report 2013*, pp. 131, 135, 137 and 178; and *OHCHR Report 2012*, pp. 117, 121, 123 and 163.
[25] For the relevant recommendation, see A/HRC/22/10, para. 124.14.
[26] See CAT/C/KOR/CO/3-5, para. 5 (a).
[27] See CCPR/C/KOR/CO/4, para. 9. See also A/HRC/25/55/Add.1, para. 107 (i); A/HRC/32/36/Add.2, p. 21; and A/HRC/29/46/Add.1, para. 68.
[28] See CAT/C/KOR/CO/3-5, para. 44.
[29] See A/HRC/35/32/Add.1, para. 79.
[30] For the relevant recommendations, see A/HRC/22/10, paras. 124.21-124.24, 124.30-124.31, 124.33-124.34, 124.65 and 124.67.
[31] See CCPR/C/KOR/CO/4, paras. 12-13. See also CERD/C/KOR/CO/15-16, para. 18.
[32] See CERD/C/KOR/CO/15-16, para. 8; and A/HRC/29/46/Add.1, para. 67 (d).
[33] See A/HRC/29/46/Add.1, para. 67 (e).
[34] See CERD/C/KOR/CO/15-16, paras. 6 and 8.
[35] Ibid., para. 10.
[36] See A/HRC/29/46/Add.1, para. 76. See also para. 78, and CERD/C/86/D/51/2012, para. 9.
[37] See CERD/C/KOR/CO/15-16, para. 17. See also A/HRC/29/46/Add.1, paras. 28, 48 and 49.
[38] See A/HRC/29/46/Add.1, para. 74.
[39] See CERD/C/86/D/51/2012, para. 7.4.
[40] For the full text of the recommendation, see A/HRC/22/10, para. 124.29 (South Africa, Norway,

France, Ireland, Italy, Mexico, Romania, Switzerland and Canada).
[41] See UNHCR submission, p. 2.
[42] See CCPR/C/KOR/CO/4, para. 56-57; and CERD/C/KOR/CO/15-16, para. 13.
[43] Ibid., paras. 14-15.
[44] For the relevant recommendation, see A/HRC/22/10, para. 124.70.
[45] See A/HRC/25/55/Add.1, para. 107 (m).
[46] See A/HRC/33/41/Add.1, paras. 106 (d) and (l).
[47] See A/HRC/35/32/Add.1, paras. 61-66.
[48] Ibid.
[49] See A/HRC/33/41/Add. 1, paras. 106 (c) and 108; A/HRC/25/55/Add.1, para. 110; and A/HRC/32/36/Add.2, p. 21.
[50] See CCPR/C/KOR/CO/4, paras. 20-21.
[51] For the relevant recommendations, see A/HRC/22/10, paras. 124.13, 124.35, 124.37 and 124.55.
[52] See CCPR/C/KOR/CO/4, para. 27.
[53] See CAT/C/KOR/CO/3-5, para. 30.
[54] Ibid., para. 27.
[55] Ibid., para. 7.
[56] See CCPR/C/KOR/CO/4, para. 27.
[57] See CAT/C/KOR/CO/3-5, para. 10.
[58] Ibid., para. 15.
[59] Ibid., para. 17.
[60] Ibid., para. 18.
[61] See CCPR/C/KOR/CO/4, paras. 36-37.
[62] See CAT/C/KOR/CO/3-5, para. 35.
[63] See CCPR/C/KOR/CO/4, para. 31.
[64] See CAT/C/KOR/CO/3-5, para. 36.
[65] For the relevant recommendations, see A/HRC/22/10, para. 124.37.
[66] See CAT/C/KOR/CO/3-5, para. 12. See also CCPR/C/KOR/CO/4, para. 33.
[67] See CCPR/C/KOR/CO/4, paras. 34-35.
[68] See CAT/C/KOR/CO/3-5, para. 22.
[69] Ibid., para. 22.
[70] See CCPR/C/KOR/CO/4, para. 35. See also CAT/C/KOR/CO/3-5, para. 23.
[71] See CAT/C/KOR/CO/3-5, para. 22.
[72] See CCPR/C/KOR/CO/4, para. 26.
[73] See CAT/C/KOR/CO/3-5, para. 20. See also CCPR/C/KOR/CO/4, para. 27.
[74] For the relevant recommendations, see A/HRC/22/10, paras. 124.36, 124.50-124.54 and 124.56-124.57.
[75] See CCPR/C/KOR/CO/4, paras. 44-45.
[76] Ibid., para. 46. See also UNESCO submission, para. 6.
[77] See A/HRC/25/55/Add.1, paras. 25 and 107 (c). See also CCPR/C/KOR/CO/4, para. 47; and UNESCO submission, para. 19.
[78] See UNESCO submission, para. 8.
[79] See CCPR/C/KOR/CO/4, para. 48. See also A/HRC/25/55/Add.1, paras. 28-34; and CAT/C/KOR/CO/3-5, para. 15.
[80] See A/HRC/25/55/Add.1, para. 107 (d). See also CCPR/C/KOR/CO/4, para. 49; and A/HRC/32/36/Add.2, p. 21.
[81] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3257318:NO.
[82] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3257311:NO.
[83] See A/HRC/32/36/Add.2, para. 80. See also CCPR/C/KOR/CO/4, para. 50.
[84] Ibid., paras. 96 (a) and (d).
[85] See CCPR/C/KOR/CO/4, para. 52.
[86] See A/HRC/32/36/Add.2, paras. 19-20, 26, 28-29, 31, 33, 35, 39 and 42; and A/HRC/25/55/Add.1, paras. 39-44.
[87] See CAT/C/KOR/CO/3-5, para. 13.
[88] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20603&LangID=E. See also A/HRC/32/36/Add.2, para. 33.
[89] See A/HRC/32/36/Add.2, para. 93. See also A/HRC/25/55/Add.1, para. 107 (g).
[90] See A/HRC/32/36/Add.2, para. 95; and CAT/C/KOR/CO/3-5, para. 13.
[91] See A/HRC/25/55/Add.1, para. 107 (k).
[92] For the relevant recommendations, see A/HRC/22/10, paras. 124.42-124.43.
[93] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17209&LangID=E.
[94] See CAT/C/KOR/CO/3-5, para. 47.

[95] Ibid., para. 48.
[96] See CCPR/C/KOR/CO/4, paras. 40-41. See also CERD/C/KOR/CO/15-16, para. 16.
[97] See CCPR/C/KOR/CO/4, para. 42.
[98] OHCHR, "Torn apart: the human rights dimension of the involuntary separation of Korean families", para. 21.
[99] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20992&LangID=E.
[100] OHCHR, "Torn apart", para. 21.
[101] See A/HRC/35/32/Add.1, para. 45.
[102] Ibid., para. 42.
[103] See A/HRC/33/41/Add.1, para. 50.
[104] See A/HRC/25/55/Add.1, paras. 49 and 69-70. See also A/HRC/32/36/Add.2, paras. 70-72; and A/HRC/35/32/Add.1, para. 43.
[105] See CERD/C/KOR/CO/15-16, para. 11. See also A/HRC/29/46/Add.1, para. 35.
[106] See A/HRC/32/36/Add.2, paras. 57 and 70. See also CCPR/C/KOR/CO/4, para. 54.
[107] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3185098:NO.
[108] See A/HRC/25/55/Add.1, para. 107 (j). See also A/HRC/32/36/Add.2, p. 20.
[109] For the relevant recommendations, see A/HRC/22/10, paras. 124.25-124.27, 124.31-124.32, 124.39-124.40 and 124.48.
[110] See CCPR/C/KOR/CO/4, para. 16. See also A/HRC/35/32/Add.1, paras. 46 and 48, and www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3149500:NO.
[111] See A/HRC/35/32/Add.1, para. 46.
[112] See www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3257318:NO.
[113] See CAT/C/KOR/CO/3-5, para. 37. See also CCPR/C/KOR/CO/4, para. 18.
[114] See CERD/C/KOR/CO/15-16, para. 15.
[115] See CCPR/C/KOR/CO/4, para. 19.
[116] See CERD/C/KOR/CO/15-16, para. 15.
[117] See A/HRC/29/46/Add.1, para. 73.
[118] See CERD/C/KOR/CO/15-16, para. 14.
[119] See A/HRC/29/46/Add.1, para. 72.
[120] For the relevant recommendation, see A/HRC/22/10, para. 124.38.
[121] See CAT/C/KOR/CO/3-5, para. 33.
[122] See CRPD/C/KOR/CO/1, para. 9.
[123] Ibid., para. 29.
[124] Ibid., para. 30.
[125] Ibid., para. 32.
[126] Ibid., para. 33-34.
[127] See CCPR/C/KOR/CO/4, para. 29. See also CRPD/C/KOR/CO/1, para. 25; and CAT/C/KOR/CO/3-5, para. 31.
[128] See CRPD/C/KOR/CO/1, paras. 21-22.
[129] Ibid., para. 28.
[130] Ibid., para. 38.
[131] Ibid., para. 40.
[132] Ibid., para. 53.
[133] See CRPD/C/KOR/CO/1, para. 45. See also UNESCO submission, p. 6.
[134] See CRPD/C/KOR/CO/1, paras. 17-18.
[135] Ibid., para. 55.
[136] Ibid., para. 41.
[137] For the relevant recommendations, see A/HRC/22/10, paras. 124.31 and 124.64-124.69.
[138] See A/HRC/29/46/Add.1, para. 32. See also A/HRC/35/32/Add.1, para. 44.
[139] See CERD/C/KOR/CO/15-16, para. 11; and A/HRC/29/46/Add.1, para. 69.
[140] Ibid., para. 12.
[141] See CAT/C/KOR/CO/3-5, para. 40.
[142] See CERD/C/KOR/CO/15-16, para. 11. See also CCPR/C/KOR/CO/4, para. 41.
[143] See UNHCR submission, p. 1. See also CAT/C/KOR/CO/3-5, para. 41.
[144] See UNHCR submission, pp. 2-3.
[145] See CAT/C/KOR/CO/3-5, para. 42.
[146] See UNHCR submission, p. 3.
[147] See A/HRC/29/46/Add.1, para. 79.
[148] See UNHCR submission, p. 3. See also CAT/C/KOR/CO/3-5, para. 42.
[149] See UNHCR submission, p. 1.
[150] See CERD/C/KOR/CO/15-16, para. 13.
[151] See UNHCR submission, pp. 1 and 4.

[152] Ibid., p. 4.
[153] Ibid., p. 5.